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September 30, 2015

By ECF

The Hon. Lorna G. Schofield, U.S.D.J.
United States District Court,
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Kriss et al. v. Bayrock Group et al.*
10 Civ. 3959 (LGS) (FM)

Dear Judge Schofield:

I write on behalf of our clients Plaintiff Jody Kriss in the above-referenced matter. Two days ago, on September 28, 2015 Plaintiffs filed their Response to Defendant Felix Satter's ("Satter") Objections to Chief Magistrate Judge Frank Maas' August 13, 2015 Report & Recommendation. (*See* Plaintiffs' Response to the Objections, ECF No. 194). In the Response, Plaintiffs assert that the Court must deny Satter's request, in connection with his Objections, to dismiss the claims against him under the "unclean hands" doctrine. More specifically, my affidavit submitted in support of Plaintiffs' Response, and exhibits thereto, establish that Satter has, among other things, sent harassing emails to Plaintiff Kriss and Plaintiff Michael Chu'di Ejekam in an attempt to extort from them a voluntary dismissal of this action. (*See* ECF No. 194, Affidavit of Bradley D. Simon, sworn to on Sept. 28, 2015 ("Simon Aff."), Doc. No. 8, at ¶¶ 9-13, and Simon Aff. Exs. 13, 15, Doc. Nos. 21, 23).

Yesterday, one day after Plaintiffs filed their Response, Satter sent Mr. Kriss a voice message threatening to disrupt the funeral of Mr. Kriss' grandfather, Hyman Kriss, scheduled for Friday, October 2, on Long Island, approximately 24 miles from Port Washington, where Satter lives. The voice message states that Satter is "seriously thinking of exercising [his] First Amendment rights on Friday at the New Montefiore Cemetery in Farmingdale [New York]."¹

¹ Plaintiffs can provide the court with an electronic audio file of the voice message upon request.

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Yesterday, Mr. Kriss also received a series of text messages on his cell phone that in all probability were sent by Satter and that relate to the funeral. (See Exhibit 1 annexed hereto (a text record of voice and text messages received by Mr. Kriss' phone on Sept. 29, 2015, from 6:17pm to 6:44pm). The text messages include a threat to disrupt the funeral: "I was thinking of exercising my 1st amendment rights on Friday in Farmingdale, that way the whole clan will know what a piece of garbage you are. See you at 10:30... At the front gate a nice big sign with directions and a care package will be given out..." The funeral is scheduled to take place at the New Montefiore Cemetery in Farmingdale, NY, at 10:30am on Friday. The messages also appear to reference the Order to Show Cause that Satter has brought against Kriss in the Eastern District. One message states: "As you can see it's a matter of weeks before you are done. And then I begin you will love my lawsuit." ²

Plaintiffs submit that Satter's continued harassment of them with the goal of thwarting this action represents a serious affront to the integrity and authority of the Court. Plaintiffs therefore respectfully request that the Court hold a pretrial conference at its earliest convenience to discuss the appropriate course of action in response to Satter's recent efforts to intimidate Mr. Kriss in retaliation for Plaintiff's filing of their Response.

We thank the Court in advance for considering this request.

As this matter has been referred to Judge Maas for general pretrial supervision, Defendants shall direct this request, and other similar requests, to him.

Dated: October 1, 2015
New York, New York



LORNA G. SCHOFIELD

UNITED STATES DISTRICT JUDGE

² The messages read in their entirety:

I was thinking of exercising my 1st amendment rights on Friday in Farmingdale, that way the whole clan will know what a piece of garbage you are. See you at 10:30. Sorry 10:30. Please tell your family its west Babylon not Farmingdale. 1180 Wellwood Ave. At the front gate a nice big sign with directions and a care package will be given out. Maybe even a picture of you on a big sign so nobody misses it. I plan on giving you and yours the same peace and tranquility you gave me and mine. I am really looking forward to the next 5 years. As you can see it's a matter of weeks before you are done. And then I begin you will love my lawsuit so will everyone you ever work with and anyone your father ever worked with. It's going to be a hoot. Is there anyone you want me to wish happy holidays to [emoticon]. You can't even imagine the next 5 years it's going to be so much fun. Remember scumbag you brought my father into this while I was saying Kadish for him. I plan to return the favor in spades.

Voice

CALL TEXT

Inbox

★ Starred

Vocemails (3)

Texts

History

More ▾

Google Contacts ⓘ

Voice in Hangouts

Make calls from

Android

Your number:

(917) [REDACTED]

Credit: [REDACTED]

- ☐ +13057706664 Add - North Dade, FL
9/29/15 6:44 PM 79 minutes ago
- +13057706664: I was thinking of exercising my 1st amendment rights on Friday in Farmingdale, that way the whole clan will know what a piece of garbage you are. See you at 10: 6:28 PM
- +13057706664: 30 6:28 PM
- +13057706664: Sorry 10:30 6:29 PM
- +13057706664: Please tell your family its west Babylon not Farmingdale. 1180 Wellwood Ave. At the front gate a nice big sign with directions and a care package will be given 6:37 PM
- +13057706664: out. Maybe even a picture of you on a big sign so nobody misses it. 6:37 PM
- +13057706664: I plan on giving you and yours the same peace and tranquility you gave me and mine. I am really looking forward to the next 5 years. As you can see it's a matte 6:44 PM
- +13057706664: you brought my father into this while I was saying Kaddish for him. I plan to return the favor in spades. 6:44 PM
- +13057706664: g to be a hoot. Is there anyone you want me to wish happy holidays to? You can't even imagine the next 5 years it's going to be so much fun. Remember scumbag 6:44 PM
- +13057706664: r of weeks before you are done. And then I begin you will love my lawsuit so will everyone you ever work with and anyone your father ever worked with. It's goin 6:44 PM
- Call Text more ▾

- ☐ +441613750689 Add
9/29/15 6:17 PM 106 minutes ago
- My message is I'm seriously thinking of exercising my first amendment rights. On Friday at the new Montefiore cemetery in Farmingdale
- ▶ 00:12